

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

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	:	Master File
IN RE BANK OF AMERICA CORP.	:	No. 09 MD 2058 (PKC)
SECURITIES, DERIVATIVE, AND	:	
EMPLOYEE RETIREMENT INCOME	:	ECF CASE
SECURITY ACT (ERISA) LITIGATION	:	
	:	Oral Argument Requested
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	:	
THIS DOCUMENT RELATES TO	:	
	:	
<i>Waber v. Lewis, et al.</i> , No. 12 Civ. 4568	:	
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**NOTICE OF MOTION OF BANK OF AMERICA CORP. TO DISMISS PLAINTIFF
MICHAEL WABER'S SHAREHOLDER DERIVATIVE COMPLAINT**

PLEASE TAKE NOTICE that upon (i) the accompanying Memorandum of Law in Support of Motion to Dismiss Plaintiff Michael Waber's Shareholder Derivative Complaint; (2) the accompanying Declaration of Sean K. Mullen dated January 3, 2013, and the exhibits attached thereto, and (iii) all the pleadings and proceedings heretofore and herein, nominal defendant Bank of America Corp. will move this Court pursuant to Rule 23.1 of the Federal Rules of Civil Procedure, before the Honorable Judge P. Kevin Castel, at the Daniel Patrick Moynihan United States Courthouse, 500 Pearl Street, New York, New York, 10007, on such date and time as this Court orders, for an Order dismissing Plaintiff Michael Waber's Shareholder Derivative Complaint with prejudice and without leave to amend pursuant to Rule 23.1 of the Federal Rules of Civil Procedure, and for such other and further relief as this Court may deem just and proper.

PLEASE TAKE FURTHER NOTICE that, pursuant to the briefing schedule set by this Court on October 15, 2012, any answering papers in response to this motion shall be served upon

the undersigned counsel on or before February 1, 2013, and any reply papers shall be served upon Plaintiff Michael Waber's counsel on or before February 15, 2013.

Dated: New York, New York
January 3, 2013

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